

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**PATRICIA THAMES on her own behalf and
on the behalf of her minor child T.R.,**

Plaintiffs,

v.

Case No.11-CIV-00610-ACT/KBM

**ALBUQUERQUE PUBLIC SCHOOL DISTRICT BOARD
OF EDUCATION, a municipal corporation, ALBUQUERQUE
PUBLIC SCHOOLS BOARD MEMBERS, DAVID L. ROBBINS,
DAVID PEERCY, MARTIN ESQUIVEL, PAULA MAES,
DELORES GRIEGO, ROBERT LUCERO, AND LORENZO
GARCIA, in their official capacities,
THE DURHAM SCHOOL SERVICES BUS COMPANY,
and, ANDY BACA, A BUS DRIVER, in his official and individual capacities,**

Defendants,

ORDER APPROVING SETTLEMENT WITH MINOR CHILD

This matter comes before the Court on a Joint Verified Motion to Approve Settlement with a Minor filed by Plaintiff Patricia Thames, on her own behalf and on the behalf of her minor child T.R., by and through her attorneys, the Kennedy Law Firm (Joseph Kennedy and Shannon Kennedy) and Garcia Ives Nowara (Molly Schmidt-Nowara), Defendant Board of Education of the Albuquerque Public Schools (“APS”), by and through its attorneys, Modrall, Sperling, Roehl, Harris & Sisk, P.A. (Michael L. Carrico and Dahlia R. Dorman), and Defendant Durham School Services, L.P. (“Durham”) and Andy Baca (“Baca”), by their attorneys, Windle, Hood, Alley, Norton, Brittain & Jay LLP (Eric M. Brittain).

FINDINGS

Plaintiff filed her Complaint on June 2, 2011, alleging federal civil rights violation claims and tort claims against Defendants arising out of mental and emotional distress allegedly suffered by T.R. stemming from school bus incident reports dated April 27 and May 5, 2010 while T.R. attended Jefferson Middle School. Based upon clear and convincing evidence, the Court finds:

1. The case involves mental and emotional distress injuries alleged as a result of school bus incident reports, dated April 27 and May 5, 2010, written by school bus driver Baca against T.R. while T.R. attended Jefferson Middle School.

2. The minor child, T.R., is the minor child of Patricia Thames.

3. A settlement conference was held on October 22, 2012 with Chief Magistrate Judge Molzen, at which time all of Plaintiff's claims against Defendants were settled and APS' crossclaim against Durham and Baca for indemnification was settled.

4. The terms of the settlement as to the minor child, T.R., are reflected in the written Confidential Settlement Agreement and Release of All Claims, which has been provided to the Court, and whose terms are incorporated herein by reference.

5. The settlement payment as described in the Confidential Settlement Agreement and Release of All Claims, which the Court has reviewed, requires that the monies be used for the benefit of T.R., as well as to pay all costs, Medicare, Medicaid, or other healthcare liens, and attorneys' fees.

6. At the conclusion of the Settlement Conference, Chief Magistrate Judge Molzen went on record to confirm the parties' understanding of the terms of the settlement agreement. Patricia Thames, as legal guardian of T.R., represented in open court and on the record that she understands that the settlement payment reflects the total amount that will be paid by Defendants, and that neither

she nor T.R. will receive any additional monies from Defendants. She further represented that she understood that no other claims can be brought on the behalf of T.R., by her or anyone else related to T.R., as a result of the events alleged in the Complaint. Patricia Thames confirmed her understanding that she did not have to settle and that she could have gone to trial where she might have received more money, less money, or no money at all, and that no one had forced or coerced her to settle.

7. Patricia Thames wants the Chief Magistrate Judge to recommend the settlement in this matter.

CONCLUSIONS

The Court concludes that the settlement of all claims which could have been brought on behalf of the minor child, T.R., as set forth above and reflected in the Confidential Settlement Agreement and Release of All Claims is fair and reasonable under the circumstances, and acceptance of the settlement is in the best interests of T.R.

The Court therefore finds that the settlement as reflected in the Confidential Settlement and Release Agreement of All Claims will be and hereby is approved, and recommends to the presiding judge that upon submission of a joint motion and order, Plaintiff's claims against Defendants be dismissed with prejudice and APS' crossclaim against Durham and Baca be dismissed with prejudice.

A handwritten signature in black ink, reading "Karen B. Molzen". The signature is written in a cursive, flowing style.

HONORABLE KAREN B. MOLZEN
U.S. Chief Magistrate Judge

Respectfully submitted,

MODRALL, SPERLING, ROEHL, HARRIS
& SISK, P.A.

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